

# **Exhibit A**

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*Attorneys for Plaintiff/Counterdefendant,  
Merola Sales Company, Inc. and for Third-Party  
Defendants, Home Depot U.S.A., Inc. and Home  
Depot Product Authority, LLC*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Merola Sales Company, Inc.,  
  
Plaintiff/Counterdefendant,  
  
vs.  
  
Tabarka Studio, Inc.,  
  
Defendant/Counterclaimant.

No. CV-18-00248-PHX-SPL

**DECLARATION OF JOHN  
MEROLA IN SUPPORT OF  
THIRD PARTY DEFENDANTS'  
MOTION TO DISMISS**

Tabarka Studio, Inc.,  
  
Third Party Plaintiff,  
  
vs.  
  
Home Depot Product Authority,  
LLC, et al.,  
  
Third Party Defendants.

**DECLARATION OF JOHN MEROLA**

I, JOHN MEROLA, hereby declare:

1. I am over the age of 18 years old and make this Declaration in support of Third Party Defendants' Home Depot Product Authority, LLC ("HDP") and Home Depot U.S.A., Inc. ("HDUSA") (collectively, "Home Depot Entities") Motion to Dismiss for Lack of Personal Jurisdiction and Improper Venue (the "Motion").

2. I am the Division President of the Home Depot Entities' co-(counter) defendant, Merola Sales Company, Inc. ("Merola").

3. I am a principal and custodian of records for Merola.

4. I have personal knowledge of the matters set forth herein, either as a direct participant in the matters described or in my capacity as a principal and custodian of records for Merola. As to those matters, my knowledge is based upon a review of the files maintained by Merola in its regular course of business. Unless otherwise stated herein, I am familiar with the manner in which those files are created and maintained. If called and sworn as a witness, I could and would competently testify to the matters set forth herein.

5. I have read the First Amended Third Party Complaint and know its contents.

**Merola's Tile Sales through Home Depot**

6. Merola sells ceramic tiles to and through wholesale customers and to end users. Merola and HPDA are parties to a "Supplier Buying Agreement." Under the agreement, Merola sells tiles to end user customers through HDP's website and ships the tiles directly to the customer or to a HDUSA store for pick-up by the customer. Included amongst the tiles

1 sold through HDPa are the following named decorative ceramic tiles: Archivo Lattice,  
2 Archivo Ornate, Archivo Fleur de Lis, and Archivo Mandir (the “Accused Tiles”).

3         7.       When a customer purchases one or more of the Accused Tiles through Home  
4 Depot, the purchase must be made online, through HomeDepot.com. The Accused Tiles are  
5 not stocked in HDUSA’s physical retail stores, including those in Arizona, and are not  
6 available as an in-store item.  
7

8         8.       To purchase one or more of the Accused Tiles, the customer points and clicks  
9 on the item to order it on HomeDepot.com.

10        9.       Upon checking out, the customer chooses delivery “Direct to Home” or “Direct  
11 to Store.” If the customer chooses the “Direct to Store” option, Merola ships the purchased  
12 product to a local HDUSA store chosen by the customer. Once it arrives at the local HDUSA  
13 store, HDPa notifies the customer to pick up the product.  
14

15        10.      HDPa electronically sends the online orders to Merola through Merola’s  
16 ERP/EDI system.

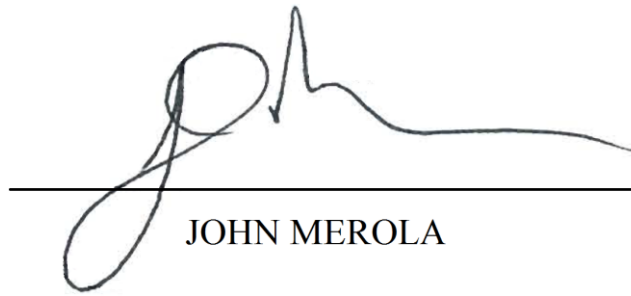
17        11.      All orders of the Accused Tiles through HDPa’s website are shipped from  
18 Merola’s New Jersey warehouse. Merola’s computer system puts the ship-to address on the  
19 shipping ticket.  
20

21        12.      Merola processes and signs the order via UPS (for orders less than 250 pounds)  
22 or via Truck (for orders over 250 pounds).

23        13.      Merola sends the customer the tracking information and invoice electronically.  
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25               Executed on June 7, 2018 at Atlantic City, New Jersey.  
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A handwritten signature in black ink, appearing to read 'J. Merola', is written over a horizontal line. The signature is stylized with a large loop and a sharp peak.

JOHN MEROLA